



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

PD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/227,344	01/08/99	SCHOFIELD	690.2200-PCT

005514 MMC2/0714  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

EXAMINER  
SIKDER, M

ART UNIT PAPER NUMBER  
2872

DATE MAILED: 07/14/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/227,344

Applicant(s)

Schofield et al.

Examiner

Mohammad Y. Sikder

Group Art Unit

2872

☒ Responsive to communication(s) filed on Jun 19, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 93-112 is/are pending in the application.

Of the above, claim(s) 97-99 and 108-112 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 93-96 and 100-107 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2872

***DETAILED ACTION***

***ACKNOWLEDGMENT***

1. Applicant's election with traverses of Group I and Species in Paper No.9 is acknowledged.

The traversal on the ground that the election requirement by stating that there would be no serious burden on the office to examine all claims. Theses arguments have not been found to be persuasive. Applicant is reminded that in order for traversal of a species requirement to be found persuasive, the applicant should submit evidence or identify evidence of record showing the inventions are not "patentably distinct" or "obvious variants".

Therefore, applicants traverse is not persuasive. The requirement is still deemed proper and is therefore made FINAL.

As a result of applicant's election, claims 93-96, 100-107 are examined in the office action and claims 97-99, 108-112 are withdrawn from further consideration by the examiner, 37 C.F.R.

§ 1.142(b).

Art Unit: 2872

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 93, 96, 100, 102, 104, 106-107 are rejected** under 35 U.S.C. 102(b) as being anticipated by Breed et al. (5,848,802).

Breed et al. (5,848,802) shows (see fig. 1):

- a) an imaging device 110 for capturing an image of a front seat 102 of the vehicle and outputting image data corresponding thereto, and a processor which (i) receives the image data output from the imaging device, (ii) compares the received image data with stored image data, and (iii) outputs a vehicle equipment control signal based on the comparison, see col. 7, lines 10-41, col. 12, lines 63-68, col. 13, lines 1-9, as claimed in claims 93, 100,
- b) the output signal comprises an airbag inhibit signal, see col. 12, lines 31-52, as claimed in claims 96, 100,
- c) the processor outputs the inhibit signal when the comparison determines that a child occupies the vehicle front seat, see col. 14, lines 65-68, as claimed in claim 102,

Art Unit: 2872

- d) the processor outputs the inhibit signal when the comparison determines that a vehicle front passenger seat is empty, see col. 14, lines 65-68, as claimed in claim 104,
- e) said inhibit signal prevents deployment of the airbag, see col. 12, lines 31-52, as claimed in claim 106,
- f) said inhibit signal controls the rate at which the airbag deploys, see col. 12, lines 48-50, as claimed in claim 107.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

Art Unit: 2872

made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 94-95, 101 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Breed et al. (5,848,802) in view of Tsai (4,974,078).

As set forth above, Breed et al. (5,848,802) discloses the invention substantially as claimed except for:

- a) said imaging device comprises a single chip camera, as calmed in claim 94,
- b) said camera is disposed adjacent a vehicle rearview mirror, as calmed in claim 95,
- c) the imaging device comprises a single chip camera disposed adjacent a vehicle rearview mirror, as calmed in claim 101.

The use of a single chip camera is well known in the art for employing transform coding of the digital images or bandwidth compression prior to image transmission or storage to improve transmission or storage efficiency, and such use can be seen in Tsai (4,974,078), see col. 1, lines 24-30.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use single chip camera as disclosed by Tsai (4,974,078) in the device of

Art Unit: 2872

Breed et al. (5,848,802) to achieve a controlling apparatus as claimed, because the use of such single chip camera would employ transform coding of the digital images or bandwidth compression prior to image transmission or storage to improve transmission or storage efficiency.

Regarding the features of disposing said camera adjacent a vehicle rearview mirror, as claimed in claims 95, 101, Official Notice is hereby taken that it is obvious in the mirror art for disposing a camera in different locations such as adjacent to a vehicle rearview mirror to capture an image of a driver of the vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Breed et al. (5,848,802) in view of Tsai (4,974,078) such that disposing a camera adjacent to a vehicle rearview mirror to capture an image of a driver of the vehicle.

6. **Claims 103, 105 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Breed et al. (5,848,802).

As set forth above, Breed et al. (5,848,802) discloses the invention substantially as claimed except for:

- a) the processor outputs the inhibit signal when the comparison determines that a child restraint system occupies the vehicle front seat, as claimed in claim 103,

Art Unit: 2872

b) the processor outputs an airbag enable signal when the comparison determines that an occupant of the front seat is not wearing a seat belt, as claimed in claim 105.

Breed et al. (5,848,802) indicated of a sophisticated pattern recognition, see col. 15, lines 1-1.

Official Notice is hereby taken that it is obvious in the pattern recognition art for comparing if child restraint system occupies the vehicle front seat, or the comparison determines that an occupant of the front seat is not wearing a seat belt in order to deploy or not to deploy the air bag. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Breed et al. (5,848,802) such that comparing if child restraint system occupies the vehicle front seat, or the comparison determines that an occupant of the front seat is not wearing a seat belt in order to deploy or not to deploy the air bag.

### ***CONTACT INFORMATION***

Papers related to this application may be submitted to Group 2870 by facsimile transmission. Papers should be faxed to Group 2870 via the PTO Fax center located in the Crystal Plaza 4. Faxing of such papers must conform with the notice published in the official Gazette, 1096 OG 30 (November 15, 1989). The CP-4 Fax Center number is (703) 308-7722.



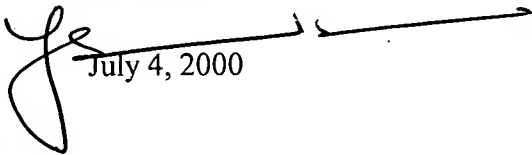
Application/Control Number: 09/227,344

Page 8

Art Unit: 2872

Any inquiry of a general nature or relating to the status of this application should be directed to M. Sikder whose telephone number is (703) 305-5471.

M. Sikder

 July 4, 2000